



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

L. Preston Bryant, Jr.
Secretary of Natural Resources

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David K. Paylor
Director

Francis L. Daniel
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

ROBERT L. INGRAM, JR.

Registration No. VAR051350

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §62.1-44.15(8a) and §62.1-44.15(8d), between the State Water Control Board and Robert L. Ingram, Jr. for the purpose of resolving certain alleged violations of environmental law and/or regulations.

SECTION B: Definitions:

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code §10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Special Order.
6. “Regulation” means 9 VAC 25-151-10 *et seq.* - the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges Associated with Industrial Activity.

7. “TRO” means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
8. “Permit” means VPDES General Permit for Storm Water Discharges Associated with Industrial Activity, which became effective June 30, 1999, was reissued July 1, 2004 and expires on June 30, 2009.

SECTION C: Finding of Facts and Conclusions of Law

1. Robert L. Ingram, Jr. (“Mr. Ingram”) owns and operates Ingram Auto Mall, an automobile salvage yard located at 2400 East Indian River Road, Norfolk (“facility”). Mr. Ingram dismantles used motor vehicles for the purpose of selling and recycling auto parts and/or scrap metal. Storm water discharges from the facility are subject to the Permit through Registration No. VAR051350, which was issued October 26, 2004, and expires on June 30, 2009. Storm water discharges from the facility were previously subject to the Permit through Registration No. VAR550251, which was issued February 25, 2003, and expired June 30, 2004.
2. The Permit specifies that the permittee must submit a registration statement 180 days prior to the expiration date of the permit to maintain coverage under the reissued Permit. The registration statement was due by January 1, 2004.
3. By letter dated April 13, 2004, DEQ notified Mr. Ingram that the Permit would be reissued effective July 1, 2004. In addition, the letter stated that in order to maintain coverage under the Permit, a registration statement must be submitted to DEQ prior to July 1, 2004.
4. By letter dated August 25, 2004, DEQ notified Mr. Ingram that it had not received the registration statement from Mr. Ingram.
5. On September 10, 2004, DEQ issued a warning letter to Mr. Ingram advising Mr. Ingram that he was operating without Permit coverage and that as of September 10, 2004 DEQ had not received the registration statement from Mr. Ingram.
6. DEQ received Mr. Ingram’s registration statement on October 15, 2004. DEQ issued Registration No. VAR051350 to Mr. Ingram on October 26, 2004. Mr. Ingram did not have Permit coverage from July 1, 2004 through October 25, 2004.
7. On October 25, 2005 DEQ compliance staff (“staff”) conducted a compliance inspection of the facility and documented deficiencies including the following: (a) overall poor housekeeping practices including puddles with emulsified oil at the entrance of the facility and the dismantling and car crusher area, and exposed batteries stored improperly; (b) the storm water pollution prevention plan (“SWP3”) was not available for review; (c) routine site inspections and required

training were not conducted and/or documented; (d) non-storm water certification was not available for review; and (e) a site map identifying the location of the outfalls was not available for review.

8. Part II.M of the Permit required Mr. Ingram to submit a new registration statement at least 180 days before the expiration date of the Permit. Mr. Ingram violated the Permit by failing to submit the registration statement 180 days prior to the expiration date of the Permit.
9. 9 VAC 25-151-50 of the Regulation specifies that any owner governed by the Permit is authorized to discharge to surface waters of the State provided that the owner files a registration statement, as described in the Regulation, which is accepted by the Board. Mr. Ingram did not have Permit coverage from July 1, 2004 through October 25, 2004. § 62.1-44.5.A of the Va. Code prohibits waste discharges to State waters except in compliance with a certificate issued by the Board. Mr. Ingram violated the Va. Code by discharging to surface waters of the State between July 1, 2004 and October 25, 2004, as evidenced by the sampling and rain data provided to DEQ by Mr. Ingram, which indicated storm water discharges on October 15, 2004.
10. Part III.B.2.c of the Permit requires Mr. Ingram to maintain a site map which generally describes the activities at the facility including the location of the storm water outfalls and an approximate outline of the drainage area of each outfall. Additionally the Permit specifies that the site map should be maintained on site and made available to DEQ upon request. Mr. Ingram violated the Permit by failing to maintain the required site map on site and failing make the site map available to DEQ upon request during the inspection conducted by staff on October 25, 2005.
11. Part III.B.6.b.(1)(a) of the Permit requires Mr. Ingram to implement good housekeeping practices at the facility to minimize the impacts of industrial activities upon the receiving stream. Mr. Ingram violated the Permit by failing to implement good housekeeping practices at the facility as observed by staff during the routine site inspection conducted on October 25, 2005.
12. Part III.B.6.b.(1)(e) of the Permit requires Mr. Ingram to perform routine facility inspections at least quarterly and maintain records of inspections in accordance with the SWP3. Mr. Ingram violated the Permit by failing to conduct and/or document routine facility inspections in accordance with the SWP3.
13. Part III.B.6.b.(1)(f) of the Permit specifies that Mr. Ingram is required to provide training to all employees who work in areas where industrial materials or activities are exposed to storm water and are responsible for implementing activities identified in the SWP3. Mr. Ingram violated the Permit by failing to provide the required training to employees.

14. Part III.D.1 of the Permit requires Mr. Ingram to provide certification that all discharges have been tested or evaluated for the presence of non-storm water. The certification must be signed by an authorized individual, maintained on site and made available to DEQ upon request. Mr. Ingram violated the permit by failing to provide the certification of non-storm water discharges to DEQ upon request.
15. Part III.F.2 of the Permit requires Mr. Ingram to retain a SWP3 on site at the facility covered by the Permit and make the SWP3 available to DEQ upon request. Mr. Ingram violated the Permit by failing to retain the SWP3 on site at the facility covered by the Permit and make the SWP3 available to DEQ upon request during the inspection conducted by staff on October 25, 2005.
16. On October 12, 2004, DEQ issued Notice of Violation ("NOV") No. 04-10-TRO-003 advising Mr. Ingram that he was operating without Permit coverage.
17. On December 14, 2005, DEQ issued NOV No. W2005-11-T-0002 to Mr. Ingram advising Mr. Ingram of the deficiencies revealed during the facility inspection conducted on October 25, 2005.
18. On January 24, 2006 Mr. Ingram submitted a response to DEQ regarding the NOV referenced in paragraph 16 of this Order indicating that procedures and improvements have been implemented at the facility to ensure compliance with the permit. Specifically, Mr. Ingram indicates that batteries have been collected from the entire property and disposed of, and training has been conducted to minimize spills and eliminate contamination of storm water runoff.

SECTION D: Agreement and Order

Accordingly the State Water Control Board by virtue of the authority granted by Va. Code § 62.1-44.15(8a) and (8d) orders Mr. Ingram, and Mr. Ingram agrees to perform the actions described in Appendix A of this Order. In addition, the Board orders Mr. Ingram, and Mr. Ingram voluntarily agrees to pay a civil charge of \$3,700 in settlement of the violations cited in this Order. The payment shall include Mr. Ingram's social security number and shall reference that payment is being made as a requirement of this Order. Payment shall be made by check, payable to the Treasurer of Virginia, delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Mr. Ingram, for good cause shown by Mr. Ingram, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the above referenced Notice(s) of Violation. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Mr. Ingram admits to the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Mr. Ingram consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Mr. Ingram declares he has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2 - 4000 *et seq.*, and the State Water Control Law and he waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Mr. Ingram to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Mr. Ingram shall be responsible for failure to comply with any of the terms and conditions by this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Mr. Ingram shall show that such circumstances were beyond his control and not due to a lack of good faith or diligence on his part. Mr. Ingram shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Mr. Ingram intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Mr. Ingram. Notwithstanding the foregoing, Mr. Ingram agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Mr. Ingram. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Mr. Ingram from his obligation to comply with any statute, regulation, Permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By his signature below, Mr. Ingram voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 2nd day of June, 2006.

Francis L. Daniel
Francis L. Daniel, Tidewater Regional Director
for David K. Paylor, Director
Department of Environmental Quality

Robert L. Ingram, Jr. voluntarily agrees to the issuance of this Order.

By: [Signature]

Date: 3-3-06

Commonwealth of Virginia
City/County of Virginia Beach

The foregoing document was signed and acknowledged before me this 13th day of March, 2006, by Robert L. Ingram, Jr.

Laura P. James
Notary Public

My commission expires: April 30, 2009

APPENDIX A

Mr. Ingram shall:

1. At least quarterly, beginning the first quarter after the effective date of this Order, submit to DEQ Tidewater Regional Office, the results of routine inspections of all areas of the facility where industrial materials or activities are exposed to storm water, along with descriptions of any corrective actions that were taken in response to any deficiencies or opportunities for improvement that were identified.
2. Within 30 days of the effective date of this Order, submit to DEQ Tidewater Regional Office, certification of staff training. Training shall include guidance regarding practices necessary to achieve compliance with the Permit, including at a minimum, guidance regarding the Permit requirements and the components and goals of SWP3, including good housekeeping and material management practices.
3. Within 30 days of the effective date of this Order submit to DEQ Tidewater Regional Office, a current SWP3 which includes the non-storm water certification, and a site map which identifies all of the items outlined in Part III.B.c. (1) through (10) of the Permit.
4. Within 30 days of the effective date of this Order, submit to DEQ Tidewater Regional Office, a corrective action plan and schedule to address the spilled oil and other housekeeping deficiencies observed during the inspection conducted on October 25, 2005.
5. Mail all submittals and reports required by this Appendix A to:

Mr. Francis L. Daniel, Regional Director
DEQ, Tidewater Regional Office
5636 Southern Blvd.
Virginia Beach, VA 23462